

REMARKS

The claims remaining in the present application are Claims 1-29. No new matter has been added.

CLAIM REJECTIONS

35 U.S.C. §101

Claims 11-20 are rejected under 35 U.S.C. 101 because the subject matter is directed to non-statutory subject matter. The Applicants respectfully traverse the rejection and assert that Claims 11-20 meet the criteria for a statutory process.

In *In Re Lowry* (32 F.3d 1579, 32 U.S.P.Q. 2d 1031; Fed. Cir. 1994), the Federal Circuit ruled that an “electronic structure,” constructed as a memory containing information stored in a particular arrangement, can serve as the basis for a patentable invention. The Federal Circuit determined that the claimed data structure was a physical entity having specific electrical or magnetic elements in memory. The court considered that the Lowry data structure imposed a physical organization on the data, and found that stored data existing as a collection of bits having information about data relationships may constitute patentable subject matter. Lowry asserted that a memory containing data organized by the claimed data structure permits a computer to efficiently access and to use the stored data, and thus the data structure had tangible benefits.

Applicants respectfully assert that a review of the claims of the instant application against an issued data structure claim of the Lowry patent (e.g., Claim 1 of U.S. Patent No. 5,664,177) demonstrates that the claims of the instant application are statutory.

Also, according to MPEP § 2106.01 (the Eighth Edition Incorporating Revision No. 5), “[d]escriptive material can be characterized as either ‘functional descriptive material’ or ‘nonfunctional descriptive material.’ In this context, ‘functional descriptive material’ consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of ‘data structure’ is ‘a physical or logical relationship among data elements, designed to support specific data manipulation functions.’) ... When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.”

Furthermore, according to Section I of MPEP § 2106.01 “a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory” (emphasis added).

The Supreme Court has held that Congress chose the expansive language of 35 U.S.C. §101 so as to include “anything under the sun that is made by man.” *Diamond v. Chakrabarty*, 447 U.S. 303, 308-309 (1980). Accordingly, 35 U.S.C. §101 provides as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

As cast, 35 U.S.C. defines, as follows, four categories of invention that Congress deems appropriate subject matter of a patent: processes, machines, manufactures, and compositions of matter.

Claim 11 describes (emphasis added):

A computer readable medium comprising executable instructions which, when executed in a processing system, causes the system to perform the steps for a method of controlling remote desktop access comprising:

determining user policies based on a classification of a user; and

providing a dynamic user account to said user, wherein said dynamic user account is customized based on said user policies to limit access to resources accessible through a remote desktop.

The Examiner admits that Claims 11-20 produce a concrete and useful result. However, the Examiner states that "it wouldn't produce a tangible result to form the basis of statutory subject matter under 35 U.S.C.

The MPEP states "the tangible requirement does require that the claim must recite more than a 35 U.S.C. 101 judicial exception, in that the process claim must set forth a practical application of that judicial exception to produce a real-world result.

Applicants submit that Claims 11-20 meet the "tangible result" requirement as the process of Claims 11-20 "control remote desktop access" by limiting access to

resources accessible through a remote desktop,” as claimed. Applicants assert that controlling remote desktop access is a “beneficial” and therefore “tangible result.” Applicants respectfully assert that Claims 11-20 are directed to statutory subject matter and that the rejection be removed.

35 U.S.C 102

Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Bertram (6,418,466). The rejection is respectfully traversed for the following rational.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." /Verdegaal Bros. v. Union Oil Co. of California/, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." /Richardson v. Suzuki Motor Co./, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that Bertram fails to disclose each and every element of Independent Claims 1, 11 and 21 arranged as in the claims.

Specifically, Applicants do not understand Bertram to teach or suggest "user account is customized based on said user policies to limit access to resources on a remote desktop," as claimed. The Examiner cites Column 8, lines 54-61 and column 9, lines 17-26 as teaching this claimed limitation. Applicants respectfully disagree and assert that "customized" as taught by Bertram requires "the administrator thus customizes the login window by entering appropriate control information."

Customizing by Bertram is a manual customization based on the administrators input. In opposition, embodiments of the present invention customize "based on said

user policies," which is very different from an administrator populating data to customize an account.

For this rational, Applicants submit that Bertram fails to disclose each and every element of Independent Claims 1, 11 and 21 arranged as in the claims. As such, Applicants submit that Claims 1-29 are patentable over Bertram and request the rejection be removed.

Claims 1-29 are rejected under 35 U.S.C. 102(a) as being anticipated by K. Keahey, V. Welch ("Fine-grain authorization for resource management in the grid environment"), hereafter referred to as Welch. The rejection is respectfully traversed for the following rational.

Applicants respectfully submit that Welch fails to disclose each and every element of Independent Claims 1, 11 and 21 arranged as in the claims.

Specifically, Applicants do not understand Welch to teach or suggest "user account is customized based on said user policies to limit access to resources on a remote desktop," as claimed. The Examiner relies on sections 5.3 and 5.32 of Welch as teaching this claimed limitation. Applicants respectfully disagree. Section 5.3 fails to teach or suggest "customizing" at all. Section 5.32 teaches "this enables the resource management system to run jobs on a system for users that do not have an account for that system." This teaches away from "user account is customized based

on said user policies," as claimed. Welch allows a user that does not have an account to use resources as opposed to the present invention that customizes an account based on user policies. Welch fails to teach or suggest customizing user accounts based on user policies, as claimed.

For this rational, Applicants submit that Welch fails to disclose each and every element of Independent Claims 1, 11 and 21 arranged as in the claims. As such, Applicants submit that Claims 1-29 are patentable over Welch and request the rejection be removed.

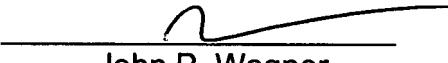
CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-29 overcome the rejections of record. For reasons discussed herein, Applicant respectfully requests that Claims 1-29 be considered by the Examiner. Therefore, allowance of Claims 1-29 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicant invites the Examiner to contact the Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,
WAGNER BLECHER LLP

Dated: 5/7, 2007


John P. Wagner
Reg. No. 35,398

Address: WAGNER BLECHER LLP
123 Westridge Dr
Watsonville, Ca
95076

Telephone: (408) 377-0500 Voice
(831) 722-2350 Facsimile